

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

JOE D. SMOTHERS

PLAINTIFF

v.

NO. 4:07CV00679 SWW

LARRY NORRIS, individually and in his official  
capacity as the Director of the Arkansas  
Department of Correction; JUDGE JOHN LANGSTON,  
individually and in his official capacity as a  
Circuit Judge for Pulaski County, Arkansas;  
RANDY JOHNSON, individually and in his  
official capacity as the Sheriff of Pulaski County,  
Arkansas; and PULASKI COUNTY, ARKANSAS

DEFENDANTS

**ORDER**

The Court has received findings and a recommendation from Magistrate Judge H. David Young. After a careful review of the findings and recommendation, the timely objections received thereto, and a de novo review of the record, the Court concludes that the findings and recommendation should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects. Service of process is not ordered, and the complaint filed by Joe D. Smothers is dismissed without prejudice. His complaint fails to state a claim upon which relief may be granted because Heck v. Humphrey, 512 U.S. 477 (1994), forecloses his claim to the extent he seeks damages and because he additionally seeks a type of relief more appropriately sought in a

proceeding pursuant to 42 U.S.C. 2254. Judgment will be entered for all of the defendants.

IT IS SO ORDERED this 26<sup>th</sup> day of November, 2007.

/s/Susan Webber Wright

UNITED STATES DISTRICT JUDGE